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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,804	04/06/2001	Masaomi Takagi	040679/1246	6447

22428 7590 09/28/2004

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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CULBRETH, ERIC D

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/826,804

Applicant(s)

TAKAGI ET AL.

Examiner

Eric D Culbreth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-13,15-17,23,24 and 29 is/are pending in the application.  
4a) Of the above claim(s) 1-4,6-8 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-13,15,16,23,24 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's remarks filed 6/14/04 are erroneous in that they state that claim 14 is still pending and it has been canceled on page 4 of the claims filed 6/14/04.

### ***Claim Objections***

2. Claims 10-13 and 16 are objected to because of the following informalities. Appropriate correction is required.
  - a. In claim 10, line 2 "the at least one of the side member and the cross member" should be "...side members and cross members", as that was what was recited in claim 9.
  - b. In claim 16, "unique portion" is unclear (when is this infringed?).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 9-13, 15-16, 23-24 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. In claim 9, line 17 (the first line of the last subparagraph) there is no clear antecedent basis for "the side member" (previously, the claim recites at least one of a pair of side members and a pair of cross members). Note also claim 11.

*Claim Rejections - 35 USC § 103*

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 9-13, 15-16, 23-24 and 29 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 61-291272 in view of Japanese Patent 6-99870 (both of record).

Japanese '272 discloses side hollow members 1, 2 with thick and thin walls and connecting walls between the thick and thin walls in Figure 5 and cross members 3, 3, 3, 3 intersecting the cross members. A suspension link bracket for supporting a suspension link as functionally recited is on the side member(s?) in such a manner that the thin wall is free of mounting with the suspension link bracket (note any one of the brackets extending from the outside wall which would be the thickened wall in Figure 4; the claim language does not require that all suspension brackets be free of the thin wall, only that a bracket be free of it). However, Japanese '272 does not disclose thick and thin and connecting walls being monolithic and the thick wall and connecting walls being free from inscribed mating. Japanese '870 discloses in Figure 4 monolithic thick, thin and connecting walls. Japanese '870's thick wall o is free from inscribed mating with the thin wall i and the connecting walls inasmuch as applicant's disclosed invention in Figures 6(a)-6(c). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Japanese '272 to include monolithic thick, thin and connecting walls free from inscribed mating as taught by Japanese '870 in order to extrude the side frames (English Abstract) and hence simplify production (claim 9).

In the combination Japanese '870 teaches in the abstract aluminum extruded material as well as bent side frames 5 in Figure 2 with longitudinal thick and thin walls in Figure 4 (claims 10-12).

As claims 13 and 15-16 are drawn to the shape of the pipe before hydroforming, they are drawn to methods steps and devices not patentably distinguishing in an article claim drawn to the final product (MPEP 2113).

Regarding claim 23, in the combination Japanese '870's thick and thin wall portions o, i have convex outer walls and concave inner walls inasmuch as applicant's invention at the upper and lower corners in Figure 4. Not only does Japanese '870's inner wall I have a convex outer wall and convex inner wall inasmuch as applicant's invention, but the thick wall o has a convex inner wall (at the upper intermediate inner wall 5a in Figure 4, where the outer wall o shifts inward) (claim 24).

Finally, regarding claim 29, in the combination Japanese '870's side member in Figure 4 has a cross section consisting of four walls (at least) and curved portions (at each corner) connecting the four walls.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric D Culbreth  
Primary Examiner  
Art Unit 3616



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